MONTANA LEGISLATIVE HISTORY

Chapter 603 1983

Bill H 629 S _____ Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) h 2/7 ___C

ex 2/7 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) h 3/17 ___C

ex 3/17 ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

gov amended 4/2/83

INTRODUCED: 02/03/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/03/83
HEARING: 2/10/83
REPORT: 02/10/83, DO PASS
REREFERRED TO COMMITTEE ON APPROPRIATIONS: 02/12/83
2ND READING: 02/21/83, DO NOT PASS AYES: 41; NAYS: 38
REREFERRED 2ND READING: 02/22/83, DO PASS AS AMENDED AYES: 86; NAYS: 12
3RD READING: 02/23/83, DO PASS AYES: 79; NAYS: 18

TRANSMITTED TO SENATE: 02/23/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 3/1/83
HEARING: 3/10/83
REPORT: 3/10/83, BE CONCURRED IN, AS AMENDED
ON MOTION, 3/12/83, THAT PASS CONSIDERATION BE GIVEN TO THE BILL THIS DATE. MOTION PASSED UNANIMOUSLY.
2ND READING: 03/14/83, BE CONCURRED IN AYES: 38; NAYS: 6
3RD READING: 03/16/83 AYES: 41; NAYS: 8

RETURNED TO HOUSE WITH AMENDMENTS: 03/16/83
2ND READING: 03/31/83, BE CONCURRED IN AYES: 85; NAYS: 3
3RD READING: 04/01/83, BE CONCURRED IN AYES: 83; NAYS: 2

TRANSMITTED TO GOVERNOR: 04/12/83
SIGNED: 04/15/83, CHAPTER 538

HB 628 -- HARPER, O'CONNELL -- PROVIDING THAT A PERSON WHO IS NOT INFORMED OF HIS RIGHT TO APPEAL A COURT ORDER FINDING HIM TO BE SERIOUSLY MENTALLY ILL AND TO WHOM THE REMEDY OF HABEAS CORPUS IS UNAVAILABLE MAY COMMENCE A PROCEEDING FOR REVIEW OF THAT ORDER IN THE SUPREME COURT WITHIN 5 YEARS OF THE ENTRY OF SUCH ORDER; SPECIFYING THE CONTENT OF A PETITION FOR REVIEW; SPECIFYING THE GROUNDS FOR RELIEF THAT MAY BE RAISED AND HOW PROCEEDINGS ON THE PETITION ARE TO BE CONDUCTED BY THE SUPREME COURT; AMENDING ....

INTRODUCED: 02/03/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/03/83
HEARING: 2/10/83
REPORT: 02/10/83, DO PASS
2ND READING: 02/12/83, DO PASS AYES: 74; NAYS: 0
3RD READING: 02/15/83, DO PASS AYES: 97; NAYS: 1

TRANSMITTED TO SENATE: 2/15/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/16/83
HEARING: 3/7/83
REPORT: 03/25/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/26/83, BE CONCURRED IN, AS AMENDED AYES: 48; NAYS: 0
3RD READING: 03/28/83 AYES: 46; NAYS: 0

RETURNED TO HOUSE WITH AMENDMENTS: 3/28/83
2ND READING: 04/01/83, BE CONCURRED IN AYES: 82; NAYS: 0
3RD READING: 04/04/83, BE CONCURRED IN AYES: 94; NAYS: 0

TRANSMITTED TO GOVERNOR: 04/13/83
SIGNED: 04/15/83, CHAPTER 522

HB 629 -- D. BROWN, ADDY, KEYSER, ET AL. -- TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIONAL AMENDMENTS BY THE LEGISLATURE; AMENDING ....

BY REQUEST OF: THE HOUSE JUDICIARY COMMITTEE

INTRODUCED: 02/03/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/03/83
HEARING: 2/7/83
REPORT: 02/07/83, DO PASS
2ND READING: 02/09/83, DO PASS AYES: 96; NAYS: 0
3RD READING: 02/11/83, DO PASS AYES; 97; NAYS: 0

TRANSMITTED TO SENATE: 2/11/83
REFERRED TO COMMITTEE ON JUDICIARY: 02/12/83
HEARING: 3/17/83
REPORT: 03/17/83, BE CONCURRED IN
2ND READING: 03/19/83 AYES: 49; NAYS: 0
3RD READING: 03/22/83 AYES: 48; NAYS: 0

RETURNED TO HOUSE: 3/22/83

TRANSMITTED TO GOVERNOR: 03/28/83
RETURNED WITH AMENDMENTS: 4/2/83

HOUSE
2ND READING: 04/05/83, BE ADOPTED AYES: 94; NAYS: 1
3RD READING: 4/6/83, BE ADOPTED AYES: 88; NAYS: 2

TRANSMITTED TO SENATE: 04/06/83
2ND READING: 04/08/83 AYES: 48; NAYS: 0
3RD READING: 04/11/83 AYES: 50; NAYS: 0

RETURNED TO HOUSE 4/11/83

TRANSMITTED TO GOVERNOR: 4/16/83
SIGNED: 04/20/83, CHAPTER 603

HB 630 -- DONALDSON -- TO AUTHORIZE A POLITICAL SUBDIVISION TO ADOPT FLOODPLAIN MANAGEMENT REGULATIONS WITHIN AREAS SUBJECT TO SHEETFLOODING AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY; AMENDING ....

INTRODUCED: 02/03/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 02/03/83
HEARING: 2/7/83
REPORT: 02/08/83, DO PASS
2ND READING: 02/11/83, DO PASS AYES: 90; NAYS: 3
3RD READING: 02/15/83, DO PASS AYES: 96; NAYS: 2

TRANSMITTED TO SENATE: 2/15/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 02/16/83
HEARING: 3/2/83
REPORT: 3/2/83, BE CONCURRED IN
2ND READING: 03/04/83 AYES: 47; NAYS: 0
3RD READING: 03/07/83 AYES: 47; NAYS: 1

RETURNED TO HOUSE: 3/7/83

TRANSMITTED TO GOVERNOR: 3/10/83
SIGNED: 03/14/83, CHAPTER 74

House BILL NO. 629

INTRODUCED BY Dave Brown Gaye Ramirez

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIONAL AMENDMENTS BY THE LEGISLATURE; AMENDING SECTIONS 13-1-101 AND 13-1-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination or appointment as a candidate for public office as required by law;

(b) for the purposes of chapters 35, 36, or 37, an individual who has publicly announced his intention to seek nomination or election to public office by write-in vote and who has received a contribution or made an expenditure or has given an authorization to another person to receive a contribution or make an expenditure for the purpose of supporting his nomination or election.

(3) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders

or employees, so long as such organization is not a primary political committee; or

(iv) filing fees paid by the candidate.

(4) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(6) "Elector" means an individual qualified and registered to vote under state law.

(7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (3);

(ii) payments by a candidate for his filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for himself and his family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any

broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1).

(9) "Individual" means a human being.

(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for

its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

(11) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (2) of this section.

(12) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(14) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of

candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(16) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(17) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-1-104, MCA, is amended to read:

"13-1-104. Times for holding general elections. (1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in the law authorizing the ballot issue, and to

elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision required to hold elections annually shall be held on school election day, the first Tuesday of April of each year, and is subject to the election procedures provided for in 13-1-401."

-End-

MINUTES OF THE JUDICIARY COMMITTEE
February 7, 1983

The meeting was called to order by Chairman Dave Brown at 8:03 a.m. in room 224A of the capitol building, Helena, Montana. All members were present with the exception of REPRESENTATIVE FARRIS, who was excused. Brenda Desmond, Staff Attorney for the Legislative Council, was also present.

HOUSE BILL 555

REPRESENTATIVE QUILICI, District 84, Butte, stated that this bill was requested by the Montana Crime Control and is known as the Montana Criminal Justice Assistance Act. He explained that the bill intends to establish a fund for improvements for local and state law enforcement agencies and also provides that a surcharge be imposed on persons convicted of criminal offenses.

JOHN SCULLY, representing the Montana Police Protective Association and the Montana Sheriffs and Peace Officers' Association, testified that year in and year out, one of the things that the criminal justice system is capable of doing is assessing fines; and he felt that the use and purpose for which these fines could be used are tremendous.

MARK RACICOT, Prosecution Coordinator for the Attorney General, informed the committee that the county attorneys had asked them to place their names on record in support of this bill.

BILL WARE, representing the Montana Chiefs of Police Association, wished to go on record in support of this bill.

CHUCK O'REILLY, Sheriff of Lewis and Clark County, testified that back in the old days, there was very little coordination, a lot of dissension and unrest; and it did not take long to realize, that with the loss of federal funds, it could go back to those days. He affirmed that he stood solidly behind this bill.

There were no further proponents.

MARCEL TURCOTT, representing the Montana Magistrates Association, stated that they ran into this problem about four years ago when they brought a bill before this body to try and get some education for the lower court judges; and he commented that their basic concern is that if this bill passes, it might undo some of the things that were done four years ago.

There were no further questions and the hearing on this bill was closed.

The committee took a break at 9:37 a.m. and reconvened at 9:51 a.m.

HOUSE BILL 629

REPRESENTATIVE DAVE BROWN said that this was a committee bill and that it redefined the term "general election" for the purpose of submitting ballot issues to the voters and he stated that the committee had gone through this before.

There were no proponents and no opponents.

There were no questions and the hearing on the bill was closed.

A JOINT RESOLUTION

REPRESENTATIVE BERGENE distributed copies of this resolution. See EXHIBIT J. She stated that this had intended to be a HOUSE JOINT RESOLUTION but things just did not fall into place so she decided rather than ask for a suspension of the rules, she would bring it before the committee to see if they would approve it as a committee bill. She explained the resolution which is to promote the further development of community-based corrections and pre-release centers in the state of Montana.

REPRESENTATIVE HANNAH wondered if she would object placing language in there about "the Department of Institutions agrees to aggressively promote the further development of non-profit community-based corrections and pre-release centers". REPRESENTATIVE BERGENE replied that she knew how important this is to him and she feels that it has become important to the community as well. She expanded by saying that if we don't allow private, non-profit corporations to have a pre-release center in our communities, does that mean that the state will then say that it is their prerogitive to do that in communities and that there is a basic fear.

REPRESENTATIVE JENSEN commented that he felt that private, non-profit was necessary, but that he would hate to exclude someone who has profit as a motive. REPRESENTATIVE BERGENE replied that she had not really thought about a profit organization. REPRESENTATIVE HANNAH noted the last "Whereas" and said that if profits were to be included in this, that it can't be done through the resolution, because that would not be a correct statement in assessment of what the legislature did in the special session.

There was further discussion concerning the language of the resolution and it was agreed that it be taken up in executive session tomorrow.

EXECUTIVE SESSION

HOUSE BILL 629

REPRESENTATIVE SEIFERT moved that this bill DO PASS. The motion was seconded by REPRESENTATIVE EUDAILY. The motion carried unanimously.

HOUSE BILL 238

REPRESENTATIVE ADDY moved that the bill DO PASS. The motion was seconded by REPRESENTATIVE DARKO.

REPRENTATIVE ADDY passed out copies of a proposed amendment. See EXHIBIT K. He explained that in the subcommittee, REPRESENTATIVE DARKO, REPRESENTATIVE EUDAILY and he looked at the three people involved - the owner, the materialman and the contractor and tried to decide which one should bear the biggest portion of the risk. He explained that they ruled out the owner; they initially ruled out the contractor because they felt, if he can't handle the contract, how is he going to handle any further burden in a responsible manner. He said it came back to the materialman; they took it back to REPRESENTATIVE VINCENT and he indicated that this was not what he wanted to do at all; he wanted it on the contractor and for them to put a penalty clause on it so that when he does give the notice even though he hasn't paid his materialmen and no lien has been filed, he can still be disciplined. He further stated that this is a remedy available to the owner and to society before the problem arises wherein the contractor gets his money and beats it out of town.

REPRESENTATIVE ADDY moved that the amendments be adopted. REPRESENTATIVE JENSEN seconded.

REPRESENTATIVE HANNAH questioned what is the definition of owner. REPRESENTATIVE ADDY replied that it is the same definition as is now in the present mechanics' lien statute - it can be someone who is leasing, it can be someone who is buying on a contract for deed, but someone who is renting is where they draw the line.

STANDING COMMITTEE REPORT

February 7, 19 83

MR. SPEAKER:

We, your committee on JUDICIARY

having had under consideration HOUSE Bill No. 629

First reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIONAL AMENDMENTS BY THE LEGISLATURE; AMENDING SECTIONS 13-1-101 AND 13-1-104, MCA."

Respectfully report as follows: That HOUSE Bill No. 629

DO PASS

DAVE BROWN Chairman.

STATE PUB. CO.
Helena, Mont.

Art III - see 6, Art XIV see 8

Exhibit I
HB524
2/7/83
Brown testimony

This bill re-defines the "general election" held in even numbered years to include elections to vote on ballot issues that are required to be submitted to the voters, unless the law authorizing the ballot issue provides for the election to be held at an earlier date.

The reason for the bill is that in 1979 the definition of "general election" was changed. Prior to 1979 "general election" meant the statewide election held in even-numbered years. Since 1979, there is a "general election" for statewide & federal elections in even numbered years and a "general election" for local elections & political subdivisions in odd numbered years.

Art XIV Sec 8 requires that constitutional amendments be submitted to the people "at the next general election" Art III Sec 6 requires that referenda be referred to the people at the "general election." ~~This bill would~~ If this bill is enacted, both constitutional amendments & referenda will be submitted to the people in even-numbered

MINUTES OF MEETING
SENATE JUDICIARY COMMITTEE
March 17, 1983

The forty-fifth meeting of the Senate Judiciary Committee was called to order by Chairman Jean A. Turnage, at 10:02 a.m., on March 17, 1983, in Room 325, State Capitol.

ROLL CALL: All members were present with the exception of Senator Crippen whose absence was excused.

CONSIDERATION OF HOUSE BILL 629: Representative Brown submitted written testimony (see attached Exhibit "A") stating that the reason the bill has been proposed is that a question has been raised concerning how changes made in the election laws in 1979 have affected the law governing the submission of ballot issues by the Legislature to the people. Representative Brown stated that HB629 is a simple bill and asked the Committee for a favorable consideration.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 857: Representative Abrams stated that HB857 is a feasible approach to law enforcement problems and provides for cooperation with law enforcement agencies in neighboring states.

PROPONENTS: Col. R. W. Landon, representing the Montana Highway Patrol, submitted written testimony, (see attached Exhibit "B"). Mr. Landon stated that some of the areas where law enforcement officials run into problems are Cooke City, Lolo Pass and Decker, Montana. These areas are under Montana jurisdiction; however, they are more accessable to law enforcement officials of other states. This bill would provide Montana with the ability to enter into legal contracts with these other states to provide emergency services to areas such as the aforementioned. Mr. Landon feels that mutual aid will help make the best use of a scarce resource. Mr. Landon informed the Committee that the New England states have already utilized a measure such as HB857. He asked the Committee for favorable consideration.

There being no further proponents and no opponents, the hearing was opened to questions from the Committee.

Upon question from Senator Berg, Mr. Landon informed the Committee that Wyoming was very interested in entering into such an agreement with Montana.

There being no further questions from the Committee, the hearing was closed.

It is his feeling that in order to have good employees making good decisions, we need to be able to provide them with a proper defense when they are simply doing their job. Mr. Johnson submitted proposed amendments to HB357 (see attached Exhibit "D") and written testimony from Jim Nugent, Missoula County Attorney (see attached Exhibit "E") in favor of HB357.

Mr. Ray Boring, a jailer from Missoula County, testified in favor of HB357. He stated that attorneys' fees in some Oregon cases had accummulated rapidly and are very difficult for most people to pay.

Mr. Darryl Meyer of Cascade County, testified in favor of HB357. Senator Mazurek requested that he be placed on record as supporting HB357.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 807: Representative Jensen testified that HB807 is a simple bill which merely changes the time from 30 days until 90 days in which a dealer has to file a lien against a crop for seed or grain furnished in advance of payment.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

CONSIDERATION OF HOUSE BILL 617: Representative Underdal, sponsor of HB617, explained to the Committee that this bill provides for relief for crop dusters who have to file a lien in order to collect for their services already rendered. This bill will provide them with relief because of their expenses incurred while performing their service. Representative Underdal testified that Mr. Tom Mellott, a crop duster from Brady, Montana, also supports HB617.

There being no further proponents, no opponents and no questions from the Committee, the hearing was closed.

ACTION ON HOUSE BILL 617: Senator Galt moved that HB617 BE CONCURRED IN. His motion carried unanimously.

ACTION ON HOUSE BILL 807: Senator Galt moved that HB807 BE CONCURRED IN. His motion carried unanimously.

ACTION ON HOUSE BILL 629: Senator Berg moved that HB629 BE CONCURRED IN. His motion carried unanimously.

ROLL CALL

JUDICIARY COMMITTEE

48th LEGISLATIVE SESSION - - 1983 Date 3/17/83

NAME	PRESENT	ABSENT	EXCUSED
Berg, Harry K. (D)	✓		
Brown, Bob (R)	✓		
Crippen, Bruce D. (R)			✓
Daniels, M. K. (D)	✓		
Galt, Jack E. (R)	✓		
Halligan, Mike (D)	✓		
Hazelbaker, Frank W. (R)	✓		
Mazurek, Joseph P. (D)	✓		
Shaw, James N. (R)	✓		
Turnage, Jean A. (R)	✓		

Each day attach to minutes.

Exhibit "A"

The Big Sky Country

MONTANA STATE HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN
HOUSE DISTRICT 83
HOME ADDRESS:
3040 OTTAWA
BUTTE, MONTANA 59701
PHONE (406) 782-3604

COMMITTEES:
JUDICIARY, CHAIRMAN
NATURAL RESOURCES
HIGHWAYS
ENVIRONMENTAL QUALITY COUNCIL, VICE-CHAIRMAN

HB 629

SENATE TESTIMONY

HB 629 IS ENTITLED: "AN ACT TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIOANL AMENDMENTS BY THE LEGISLATURE: AMENDING SECTION 13-3-101 AND 13-1-104, MCA."

THIS BILL REDEFINES THE "GENERAL ELECTION" HELD IN EVEN NUMBERED YEARS TO INCLUDE ELECTIONS TO VOTE ON BALLOT ISSUES THAT ARE REQUIRED TO BE SUBMITTED TO THE VOTERS, UNLESS THE LAW AUTHORIZING THE BALLOT ISSUE PROVIDES FOR THE ELECTION TO BE HELD AT AN EARLIER DATE.

THE REASON THE BILL WAS PROPOSED IS THAT A QUESTION HAS BEEN RAISED CONCERNING HOW CHANGES MADE IN THE ELECTION LAWS IN 1979 HAVE AFFECTED THE LAW GOVERNING THE SUBMISSION OF BALLOT ISSUES BY THE LEGISLATURE TO THE PEOPLE.

PRIOR TO 1979, THE WORD "GENERAL ELECTION" WAS DEFINED AS "AN ELECTION HELD FOR THE ELECTION OF PUBLIC OFFICERS THROUGHOUT THE STATE AT TIMES SPECIFIED BY LAW;" AND ITS DATE WAS STATED TO BE "THE FIRST TUESDAY AFTER THE FIRST MONDAY OF NOVEMBER" IN "EVERY EVEN-NUMBERED YEAR."

IN 1979, THE LAW WAS CHANGED SO THAT AS PROVIDED IN SECTION 13-3-104, MCA, THERE IS NOW A "GENERAL ELECTION" IN EVEN NUMBERED YEARS FOR THE ELECTION OF "FEDERAL OFFICERS, STATE OF MULTICOUNTY DISTRICT OFFICERS, MEMBERS OF THE LEGISLATURE, JUDGES OF THE DISTRICT COURT AND COUNTY OFFICERS," AND THERE IS A "GENERAL ELECTION" IN ODD-NUMBERED YEARS FOR THE ELECTION OF "MUNICIPAL OFFICERS AND OFFICERS OF POLITICAL SUBDIVISIONS."

ARTICLE III, SECTION 6 OF THE MONTANA CONSTITUTION REQUIRES THAT REFERENDA SUBMITTED TO THE PEOPLE BY THE LEGISLATURE BE SUBMITTED AT THE "GENERAL ELECTION." ARTICLE XIV, SECTION 8 REQUIRES THAT CONSITIUTIONAL AMENDMENTS SUBMITTED TO THE PEOPLE BY THE LEGISLATURE BE SUBMITTED AT THE "NEXT GENERAL ELECTION."

IF THIS BILL IS ENACTED BOTH CONSTITUTIONAL AMENDMENTS AND REFERENDA WILL BE SUBMITTED TO THE PEOPLE AT THE GENERAL ELECTION IN <u>EVEN-NUMBERED YEARS</u> UNLESS THE LAW SUBMITTING THE BALLOT ISSUE TO THE PEOPLE PROVIDES OTHERWISE.

STANDING COMMITTEE REPORT

March 17, 19 83

MR. President

We, your committee on Senate Judiciary

having had under consideration House Bill No. 629

Respectfully report as follows: That House Bill No. 629

~~DO PASS~~

BE CONCURRED IN

JEAN A. TURNAGE Chairman.

STATE PUB. CO.
Helena, Mont.

AJC

HOUSE BILL NO. 629

INTRODUCED BY D. BROWN, ADDY, KEYSER, RAMIREZ

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIONAL AMENDMENTS BY THE LEGISLATURE; AMENDING SECTIONS 13-1-101 AND 13-1-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination or appointment as a candidate for public office as required by law;

(b) for the purposes of chapters 35, 36, or 37, an individual who has publicly announced his intention to seek nomination or election to public office by write-in vote and who has received a contribution or made an expenditure or has given an authorization to another person to receive a contribution or make an expenditure for the purpose of supporting his nomination or election.

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(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders

REFERENCE BILL

or employees, so long as such organization is not a primary political committee; or

(iv) filing fees paid by the candidate.

(4) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(6) "Elector" means an individual qualified and registered to vote under state law.

(7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

(i) services, food, or lodging provided in a manner that they are not contributions under subsection (3);

(ii) payments by a candidate for his filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for himself and his family;

(iii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any

broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1).

(9) "Individual" means a human being.

(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for

its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

(11) "Person" means an individual, corporation, association, firm, partnership, cooperative, committee, club, union, or other organization or group of individuals or a candidate as defined in subsection (2) of this section.

(12) "Political committee" means a combination of two or more individuals or a person other than an individual who makes a contribution or expenditure:

(a) to support or oppose a candidate or a committee organized to support or oppose a candidate or a petition for nomination; or

(b) to support or oppose a ballot issue or a committee organized to support or oppose a ballot issue; or

(c) as an earmarked contribution.

(13) "Political subdivision" means a county, consolidated municipal-county government, municipality, special district, or any other unit of government, except school districts, having authority to hold an election for officers or on a ballot issue.

(14) "Primary" or "primary election" means an election held throughout the state to nominate candidates for public office at times specified by law, including nominations of

candidates for offices of political subdivisions when the time for such nominations is set on the same date for all similar subdivisions in the state.

(15) "Public office" means a state, county, municipal, school, or other district office that is filled by the people at an election.

(16) "Registrar" means the county election administrator and any regularly appointed deputy or assistant election administrator.

(17) "Special election" means an election other than a statutorily scheduled primary or general election held at any time for any purpose provided by law. It may be held in conjunction with a statutorily scheduled election.

(18) "Voting machine or device" means any equipment used to record, tabulate, or in any manner process the vote of an elector."

Section 2. Section 13-1-104, MCA, is amended to read:

"13-1-104. Times for holding general elections. (1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in the law authorizing the ballot issue, and to

elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision required to hold elections annually shall be held on school election day, the first Tuesday of April of each year, and is subject to the election procedures provided for in 13-1-401."

-End-

PROPOSED AMENDMENT TO HOUSE BILL NO. 629
REFERENCE COPY

1. Page 6, line 25
   Following: "in"
   Strike: "the"
   Insert: "a"

2. Page 6, line 25.
   Following: "authorizing"
   Strike: "the ballot issue"
   Insert: "a special election on an initiative or referendum pursuant to Article III, section 6"

HOUSE BILL NO. 629

INTRODUCED BY D. BROWN, ADDY, KEYSER, RAMIREZ

BY REQUEST OF THE HOUSE JUDICIARY COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO DEFINE THE TERM "GENERAL ELECTION" FOR THE PURPOSE OF SUBMISSION TO THE PEOPLE OF LAWS OR CONSTITUTIONAL AMENDMENTS BY THE LEGISLATURE; AMENDING SECTIONS 13-1-101 AND 13-1-104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-1-101, MCA, is amended to read:

"13-1-101. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Anything of value" means any goods that have a certain utility to the recipient that is real and that is ordinarily not given away free but is purchased.

(2) "Candidate" means:

(a) an individual who has filed a declaration or petition for nomination, acceptance of nomination or appointment as a candidate for public office as required by law;

(b) for the purposes of chapters 35, 36, or 37, an individual who has publicly announced his intention to seek nomination or election to public office by write-in vote and who has received a contribution or made an expenditure or has given an authorization to another person to receive a contribution or make an expenditure for the purpose of supporting his nomination or election.

(3) (a) "Contribution" means:

(i) an advance, gift, loan, conveyance, deposit, payment, or distribution of money or anything of value to influence an election;

(ii) a transfer of funds between political committees;

(iii) the payment by a person other than a candidate or political committee of compensation for the personal services of another person that are rendered to a candidate or political committee.

(b) "Contribution" does not mean:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee or meals and lodging provided by individuals in their private residence for a candidate or other individual;

(ii) the cost of any bona fide news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication of general circulation;

(iii) the cost of any communication by any membership organization or corporation to its members or stockholders

REFERENCE BILL: INCLUDES GOVERNOR'S AMENDMENTS DATED 7-2-83

or employees, so long as such organization is not a primary political committee; or

(iv) filing fees paid by the candidate.

(4) "Election" means a general, special, or primary election held pursuant to the requirements of state law, regardless of the time and/or purpose.

(5) "Election administrator" means the county clerk and recorder or the individual designated by a county governing body to be responsible for all election administration duties, except that with regard to school elections, the term means the school district clerk.

(6) "Elector" means an individual qualified and registered to vote under state law.

(7) (a) "Expenditure" means a purchase, payment, distribution, loan, advance, promise, pledge, or gift of money or anything of value made for the purpose of influencing the results of an election.

(b) "Expenditure" does not mean:

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(ii) payments by a candidate for his filing fee or for personal travel expenses, food, clothing, lodging, or personal necessities for himself and his family;

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broadcasting station, newspaper, magazine, or other periodical publication of general circulation; or

(iv) the cost of any communication by any membership organization or corporation to its members or stockholders or employees, so long as such organization is not a primary political committee.

(8) "General election" means an election held for the election of public officers throughout the state at times specified by law, including elections for officers of political subdivisions when the time of the election is set on the same date for all similar political subdivisions in the state. For ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, "general election" means an election held at the time provided in 13-1-104(1).

(9) "Individual" means a human being.

(10) "Issue" or "ballot issue" means a proposal submitted to the people at an election for their approval or rejection, including but not limited to initiatives, referenda, proposed constitutional amendments, recall questions, school levy questions, bond issue questions, or a ballot question. For the purposes of chapters 35, 36, and 37, an issue becomes a "ballot issue" upon certification by the proper official that the legal procedure necessary for

its qualification and placement upon the ballot has been completed, except that a statewide issue becomes an "issue" upon approval by the secretary of state of the form of the petition or referral.

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Section 2. Section 13-1-104, MCA, is amended to read:

"13-1-104. Times for holding general elections. (1) A general election shall be held throughout the state in every even-numbered year on the first Tuesday after the first Monday of November to vote on ballot issues required by Article III, section 6, or Article XIV, section 8, of the Montana constitution to be submitted by the legislature to the electors at a general election, unless an earlier date is provided in the A law authorizing ~~the ballot issue~~ A

SPECIAL ELECTION ON AN INITIATIVE OR REFERENDUM PURSUANT TO ARTICLE III, SECTION 6, and to elect federal officers, state or multicounty district officers, members of the legislature, judges of the district court, and county officers when the terms of such offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(2) A general election shall be held throughout the state in every odd-numbered year on the first Tuesday after the first Monday in November to elect municipal officers, officers of political subdivisions wholly within one county and not required to hold annual elections, and any other officers specified by law for election in odd-numbered years when the term for the offices will expire before the next scheduled election for the offices or when one of the offices must be filled for an unexpired term as provided by law.

(3) The general election for any political subdivision required to hold elections annually shall be held on school election day, the first Tuesday of April of each year, and is subject to the election procedures provided for in 13-1-401."

-End-